

FLINT C. ZIDE, STATE BAR #160369
LAW OFFICES OF HARRIS & ZIDE
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**Attorneys for Defendants
LAW OFFICE OF HARRIS & ZIDE and FLINT C. ZIDE**

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

KATHERINE ROSE DE LA CRUZ

Plaintiff,

V.

LAW OFFICE OF HARRIS & ZIDE, a general partnership, FLINT C. ZIDE, individually and in his official capacity

Defendant(s).

Case No. 5:15-CV-00707- PSG

**DEFENDANTS LAW OFFICE OF
HARRIS & ZIDE AND FLINT C. ZIDE'S
ANSWER TO COMPLAINT**

Defendants LAW OFFICE OF HARRIS & ZIDE and FLINT C. ZIDE (“Defendants”) answer the Complaint of Plaintiff KATHERINE ROSE DE LA CRUZ (“Plaintiff”) as follows:

1. Answering Paragraph 1 of the Complaint, Defendants have insufficient information to either admit or deny the allegations contained therein and therefore deny said allegations.
 2. Answering Paragraph 2 of the Complaint, Defendants have insufficient information to either admit or deny the allegations contained therein and therefore deny said allegations.
 3. Answering Paragraph 3 of the Complaint, Defendants have insufficient information to either admit or deny the allegations contained therein and therefore deny said allegations.
 4. Answering Paragraph 4 of the Complaint, Defendants deny each and every allegation contained therein.

Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide

1 5. Answering Paragraph 5 of the Complaint, Defendants deny that violations have
2 occurred in this, or any, jurisdiction. Defendants have insufficient information to either admit or
3 deny the remainder of the allegations contained therein and therefore deny said allegations.
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5 6. Answering Paragraph 6 of the Complaint, Defendants deny that violations have
6 occurred in this, or any, jurisdiction. Defendants have insufficient information to either admit or
7 deny the remainder of the allegations contained therein and therefore deny said allegations.
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9 7. Answering Paragraph 7 of the Complaint, Defendants have insufficient information to
10 either admit or deny the allegations contained therein and therefore deny said allegations.
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12 8. Answering Paragraph 8 of the Complaint, Defendants admit that plaintiff is a natural
13 person residing in Santa Clara County, California. Defendants have insufficient information to
14 either admit or deny the remainder of the allegations contained therein and therefore deny said
15 allegations.
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17 9. Answering Paragraph 9 of the Complaint, Defendants deny that it is a general
18 partnership. Defendant admit the remainder of the allegations.
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20 10. Answering Paragraph 10 of the Complaint, Defendants admit Flint C. Zide is a
21 natural person and licensed attorney in the state of California, and that they have a principal
22 place of business as stated therein, are regularly engaged in the business of collecting debts in
23 this state by filing and maintaining civil debt collection lawsuits on behalf of others and
24 obtaining judgments in those lawsuits by using U.S. mail and telephone. Defendants deny that it
uses the internet to file and maintain civil debt collection lawsuits on behalf of others and obtain
judgments in those lawsuits. Defendants have insufficient information to either admit or deny
the allegations contained therein and therefore deny said allegations.
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26 11. Answering Paragraph 11 of the Complaint, Defendants have insufficient information
27 to either admit or deny the allegations contained therein and therefore deny said allegations.
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12. Answering Paragraph 12 of the Complaint, Defendants admit that plaintiff incurred a
financial obligation on a credit account issued by Discover Bank. Defendants have insufficient

1 information to either admit or deny the allegations contained therein and therefore deny said
2 allegations.
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5 13. Answering Paragraph 13 of the Complaint, Defendants admit that Discover Bank
6 retained defendants' legal services in regards to the debt. Defendants have insufficient
7 information to either admit or deny the allegations contained therein and therefore deny said
8 allegations.
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11 14. Answering Paragraph 14 of the Complaint, Defendants admit the allegations
12 contained therein.
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15 15. Answering Paragraph 15 of the Complaint, Defendants admit the allegations
16 contained therein.
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19 16. Answering Paragraph 16 of the Complaint, Defendants deny each and every
20 allegation contained therein.
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23 17. Answering Paragraph 17 of the Complaint, Defendants admit the allegations
24 contained therein.
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27 18. Answering Paragraph 18 of the Complaint, Defendants have insufficient information
28 to either admit or deny the allegations contained therein and therefore deny said allegations.
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31 19. Answering Paragraph 19 of the Complaint, Defendants deny each and every
32 allegation contained therein.
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35 20. Answering Paragraph 20 of the Complaint, Defendants deny each and every
36 allegation contained therein.
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39 21. Answering Paragraph 21 of the Complaint, Defendants have insufficient information
40 to either admit or deny the allegations contained therein and therefore deny said allegations.
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43 22. Answering Paragraph 22 of the Complaint, Defendants deny each and every
44 allegation contained therein.
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47 23. Answering Paragraph 23 of the Complaint, Defendants deny each and every
48 allegation contained therein..
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51 Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide
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1 24. Answering Paragraph 24 of the Complaint, Defendants deny each and every
2 allegation contained therein.
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5 25. Answering Paragraph 25 of the Complaint, Defendants have insufficient information
6 to either admit or deny the allegations contained therein and therefore deny said allegations.
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9 26. Answering Paragraph 26 of the Complaint, Defendants admit the allegations
10 contained therein.
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13 27. Answering Paragraph 27 of the Complaint, Defendants admit the allegation
14 contained therein.
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17 28. Answering Paragraph 28 of the Complaint, Defendants have insufficient information
18 to either admit or deny the allegations contained therein and therefore deny said allegations.
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21 29. Answering Paragraph 29 of the Complaint, Defendants have insufficient information
22 to either admit or deny the allegations contained therein and therefore deny said allegations.
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25 30. Answering Paragraph 30 of the Complaint, Defendants have insufficient information
26 to either admit or deny the allegations contained therein and therefore deny said allegations.
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29 31. Answering Paragraph 31 of the Complaint, Defendants admit the allegation
30 contained therein.
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33 32. Answering Paragraph 32 of the Complaint, Defendants admit the allegation
34 contained therein.
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37 33. Answering Paragraph 33 of the Complaint, Defendants have insufficient information
38 to either admit or deny the allegations contained therein and therefore deny said allegations.
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41 34. Answering Paragraph 34 of the Complaint, Defendants have insufficient information
42 to either admit or deny the allegations contained therein and therefore deny said allegations.
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45 35. Answering Paragraph 35 of the Complaint, Defendants have insufficient information
46 to either admit or deny the allegations contained therein and therefore deny said allegations.
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49 36. Answering Paragraph 36 of the Complaint, Defendants have insufficient information
50 to either admit or deny the allegations contained therein and therefore deny said allegations.
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53 Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide

1 37. Answering Paragraph 37 of the Complaint, Defendants admit the allegation
2 contained therein.
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4 38. Answering Paragraph 38 of the Complaint, Defendants admit the allegation
5 contained therein.
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7 39. Answering Paragraph 39 of the Complaint, Defendants have insufficient information
8 to either admit or deny the allegations contained therein and therefore deny said allegations
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10 40. Answering Paragraph 40 of the Complaint, Defendants deny each and every
11 allegation contained therein.
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13 41. Answering Paragraph 41 of the Complaint, Defendants deny each and every
14 allegation contained therein.
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16 42. Answering Paragraph 42 of the Complaint, Defendants deny each and every
17 allegation contained therein.
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24 **REQUEST FOR RELIEF**

25 a. Answering paragraph a of the request, Defendants deny that Plaintiff is entitled to the
26 relief requested.
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28 b. Answering paragraph b of the request, Defendants deny that Plaintiff is entitled to the
relief requested.
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30 c. Answering paragraph c of the request, Defendants deny that Plaintiff is entitled to the
relief requested.
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32 d. Answering paragraph d of the request, Defendants deny that Plaintiff is entitled to the
relief requested.
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34 e. Answering paragraph e of the request, Defendants deny that Plaintiff is entitled to the
relief requested.
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36 f. Answering paragraph f of the request, Defendants deny that Plaintiff is entitled to the
relief requested.
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FIRST AFFIRMATIVE DEFENSE

Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide

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2 **(Failure to state a Cause of Action)**

3 1. Plaintiff's complaint, and each cause of action contained therein, fails to state facts
4 sufficient to constitute a valid cause of action against Defendants.

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6 **SECOND AFFIRMATIVE DEFENSE**

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8 **(Impermissible Claim Splitting)**

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10 2. Plaintiff's complaint, and each cause of action contained therein, is an attempt to
11 engage in impermissible claim splitting because at the time it was brought there was already a
12 case pending in the Superior Court of California, San Francisco County, Central Courthouse,
13 Case #CGC11515495 containing the same factual and legal allegations, and seeking duplicative
14 recovery.

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16 **THIRD AFFIRMATIVE DEFENSE**

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18 **(Statute of Limitations)**

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20 3. Defendants are informed and believe and based thereon allege that Plaintiff's
21 Complaint, and each cause of action contained therein, or portions thereof, is barred by the
22 applicable statute of limitations.

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24 **FOURTH AFFIRMATIVE DEFENSE**

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26 **(Compliance with Statute)**

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28 4. The conduct of Defendants at all times complied with all applicable statutes,
regulations, and laws; accordingly, the Complaint and each purported cause of action alleged
therein against Defendants is barred.

FIFTH AFFIRMATIVE DEFENSE

(Estoppel)

5. The Complaint, and each cause of action alleged therein, are bared by the conduct,
actions, and inactions of Plaintiff, which amount to and constitute an estoppel of the claims and
any relief sought by the Complaint.

SIXTH AFFIRMATIVE DEFENSE

(Reasonableness and Good Faith)

Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide

1 6. Defendants and its agents, if any, acted reasonably and in good faith at all times
 2 material herein, based on all relevant facts and circumstances known by them at the time they so
 3 acted. Defendants allege that they acted lawfully and within their legal rights with a good faith
 4 belief in the exercise of those rights, and in the furtherance of legitimate business purpose.
 5 Further, Defendants acted in good faith in their honest belief that the acts, conduct and
 6 communications, if any, of Defendants were justified under the circumstances based on
 7 information reasonably available to these answering Defendants. Accordingly, Plaintiff is barred
 8 from any recovery in this action.

9 **SEVENTH AFFIRMATIVE DEFENSE**

10 **(Bad Faith Claims)**

11 7. The allegations asserted in the Complaint have always been and continue to be
 12 frivolous, groundless, and without merit. Plaintiff has brought this action against Defendants in
 13 bad faith.

14 **EIGTH AFFIRMATIVE DEFENSE**

15 **(Defendants May Recover for Plaintiff's Bad Faith Claim)**

16 8. Plaintiff's Complaint, and each cause of action contained therein, were not brought in
 17 good faith and are frivolous. Therefore, the relief requested is precluded and Defendants are
 18 entitled to recover their reasonable expense, including attorney's fees, incurred herein as a matter
 19 of law pursuant to this Court's inherent authority, including but not limited to California Code of
 20 Civil Procedure section 128.5 and 128.7.

21 **NINTH AFFIRMATIVE DEFENSE**

22 **(Mitigation of Damages)**

23 9. Plaintiff is not entitled to recover any damages, or any recovery awarded should be
 24 reduced by the amount of damages which reasonably could have been avoided, because Plaintiff
 25 failed to take reasonable steps to mitigate its damages with respect to the matters alleged in the
 26 Complaint.

27 **TENTH AFFIRMATIVE DEFENSE**

28 Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide

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2 **(Unclean Hands)**

3 10. Plaintiff is barred from maintaining the Complaint and each purported cause of
4 action alleged therein against Defendant as a result of unclean hands with respect to the events
5 upon which the Complaint and purported causes of action allegedly are based.
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8 **ELEVENTH AFFIRMATIVE DEFENSE**
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10 **(Waiver)**

11 11. The Complaint, and each cause of action contained therein, are barred by Plaintiff's
12 own conduct, actions, omissions and inaction which amount to and constitute waiver of such
13 claims and any relief sought thereby.
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16 **TWELFTH AFFIRMATIVE DEFENSE**
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18 **(Laches)**
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20 12. Plaintiff is barred by the doctrine of laches from pursing its Complaint, and each
21 cause of action contained therein, by reason of their inexcusable and unreasonable delay in filing
22 its Complaint.
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25 **THIRTEENTH AFFIRMATIVE DEFENSE**
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27 **(Actions Were Privileged and Justified)**
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29 13. The Complaint, and each cause of action contained therein, are barred because
30 Defendants' actions were privileged and justified, by statute and common law, including but not
31 limited to California Civil Code section 47.
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34 **FOURTEENTH AFFIRMATIVE DEFENSE**
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36 **(No Actual Damages)**

37 14. Defendants allege that Plaintiff has suffered no actual damages.
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40 **FIFTEENTH AFFIRMATIVE DEFENSE**
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42 **(Reservation of Rights)**

43 15. Defendants reserve the firth to amend their answer and claims herein by adding
44 additional parties, affirmative defense, counterclaims, cross-claims, and/or third party claims, as
45 additional investigation, discovery, or circumstances warrant.
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48 Answer to Complaint on Behalf of Defendants Law Office of Harris & Zide and Flint C. Zide
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2 **PRAYER FOR RELIEF**
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4 Wherfore, Defendants pray for judgment as follows:
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- 7 1. That Plaintiff take nothing by reason of its Complaint.
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- 9 2. For judgment in favor of Defendants and against Plaintiff.
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- 11 3. For costs of suit and reasonable attorney's fees incurred, and
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- 13 4. For such other and further field as the Court may deem just and proper.

14 Dated: April 13, 2015

LAW OFFICES OF HARRIS & ZIDE

15 By: /s/ Flint C. Zide
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17 Attorney for Defendants
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